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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/868,264	12/14/2001	Wolfgang Ries	2345/157	8482

26646 7590 12/31/2007  
KENYON & KENYON LLP  
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NEW YORK, NY 10004

EXAMINER
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DINH, KHANH Q

ART UNIT	PAPER NUMBER
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2151

MAIL DATE	DELIVERY MODE
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12/31/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/868,264	<b>Applicant(s)</b> RIES ET AL.	
	<b>Examiner</b> Khanh Dinh	<b>Art Unit</b> 2151	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 5 and 7-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5, 7-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a-list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/24/2007 has been entered. This is in response to the Remarks filed on 2/26/2007. Claim 6 is cancelled. Claims 5, 7-8 and new claim 9 are presented for examination.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was

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made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 5, 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bencheck et al. (hereafter Bencheck), US pat. No.6,072,777 in view Dahod et al. (hereafter Dahod), US pat. No.5,682,383.

As to claim 5, Bencheck discloses a device for controlling a telecommunications system between a plurality of networks [each network element (each network element (151-156 of fig.1) is dedicated to a specified networks as: DS1, DS3, VT-n traffic, see col.4 line 56 to col.5 line 17], each network of the plurality of networks being designed for services or parts of services (providing network services including network domains, see col. 5 lines 46-55), comprising:

at least on network management device (network element 151 fig.1);

at least one service management device (element manager 141 fig.1) and at least one domain manager (network manager 131 fig.1) (see fig.1, col.4 lines 24-55);

wherein the at least one domain manager (131 fig.1) (using network manager 131 fig.1 to communicate with element managers to set up network connections to provide services to network elements, see col.4 line 56 to col.5 line 17) has access to a selected network management device (using network manager 131 fig.1 to provide services to network elements, see col.4 line 56 to col.5 line 17);

wherein the at least one service management device is selected, and the at least one domain manager is linkable to the selected at least one service management device

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(implementing Network managers for setting up connections to network elements through element managers, see col.5 lines 18-34);

wherein the at least one network management device (151 fig.1) is assigned to each network of the plurality of networks (each network element is dedicated to a specified networks as: DS1, DS#, VT-n traffic, see col.4 line 56 to col.5 line 17) network and the at least network management device being controllable by the at least one service management device (141 fig.1) (using element manager to identify the root cause of network problems, see col. 5 lines 35-67).

Bencheck does not specifically disclose using a controllable matrix to link network devices. However, Dahod discloses a controllable matrix [a reconfigurable electronic switch matrix (200 fig.3) to provide connections between network devices, see fig.3, col. 4 lines 1-62]. It would have been obvious to one of the ordinary skill in the art at the time the invention was made to implement Dahod's matrix into the computer system of Bencheck to connect one or more internetworking devices because it would have combined different ones of user groups into Ethernet segments and provided unique switch matrix ports assigned to bridges, routers, sniffers or other internetwork connection devices and thus all collision domains can access these devices (see Dahod's col.3 lines 28-43 and col.4 lines 49-62).

As to claim 7, Bencheck does not specifically disclose using a controllable matrix to be controlled in conformance with an end-to-end connection. However, Dahod discloses a controllable matrix to be controlled in conformance with an end-to-end connection [a reconfigurable electronic switch matrix (200 fig.3) to provide connections between network devices, see fig.3, col. 4 lines 1-62]. It would have been obvious to one of the ordinary skill in

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the art at the time the invention was made to implement Dahod's matrix into the computer system of Bencheck to connect one or more internetworking devices because it would have combined different ones of user groups into Ethernet segments and provided unique switch matrix ports assigned to bridges, routers, sniffers or other internetwork connection devices and thus all collision domains can access these devices (see Dahod's col.3 lines 28-43 and col.4 lines 49-62).

As to claims 8 and 9, Bencheck further discloses a customer network management device (network element 152 fig.1). Bencheck does not specifically disclose using a controllable matrix to connect the network device. However, Dahod discloses a controllable matrix to connect the network device [using a reconfigurable electronic switch matrix (200 fig.3) to provide connections between network devices, see fig.3, col. 4 lines 1-62]. It would have been obvious to one of the ordinary skill in the art at the time the invention was made to implement Dahod's matrix into the computer system of Bencheck to connect one or more internetworking devices because it would have combined different ones of user groups into Ethernet segments and provided unique switch matrix ports assigned to bridges, routers, sniffers or other internetwork connection devices and thus all collision domains can access these devices (see Dahod's col.3 lines 28-43 and col.4 lines 49-62).

### ***Response to Arguments***

4. Applicant's arguments with respect to claims 5, 7-9 have been considered but are moot in view of the new ground(s) of rejection.

**Conclusion**

5. Claims 5, 7-9 are rejected.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh Dinh whose telephone number is (571) 272-3936. The examiner can normally be reached on Monday through Friday from 8:00 A.m. to 5:00 P.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung, can be reached on (571) 272-3939. The fax phone number for this group is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval IPAIRI system. Status information for published applications may be obtained from either Private PMR or Public PMR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



KHANH DINH  
PRIMARY EXAMINER  
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